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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/665,303	09/19/2000	John T. Santini Jr.	17648-0014	5521

29052 7590 07/17/2003

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EXAMINER

THISSELL, JEREMY

ART UNIT PAPER NUMBER

3763

DATE MAILED: 07/17/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/665,303

Applicant(s)

SANTINI JR. ET AL.

Examiner

Jeremy T. Thissell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 42-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,8-10,12,15-24,42-48,50,51 and 53-55 is/are rejected.
- 7) ☒ Claim(s) 3-7,11,13,14,25,26,49 and 51 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

Claims 1, 2, 8-10, 12, 15-24, 42-48, 50, 51, and 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (WO 97/34697).

Note that this publication is written in German. Corresponding US Patent No. 6,114,658, may be used for reference as it seems to be a direct translation. The examiner has included several Babelfish translations (internet translator) of select paragraphs from the WO document, to demonstrate the correlation between the two documents. These are unofficial and imperfect, but are provided for a general idea, particularly with regard to several pertinent paragraphs. If the ensuing prosecution merits, an official translation may be obtained. However, for now, the examiner will refer to text in the US patent for purposes of convenience to both parties.

Roth teaches a multi-layer substrate having a reservoir with an encapsulated material, wherein the reservoir has a cap that is destroyed by an electrical heating element. (US '658: col. 2, lines 29-30) Roth does not explicitly state that the device contains a drug, but does teach that it is known in the art to encapsulate pharmaceuticals in this manner. (col. 1, line 10) Further it is well-known to implant such a drug-carrying microsystem into a patient. Further still, it is obvious to a skilled artisan to use any number of different drugs and controlled release patterns. Roth teaches a indicator material (aka diagnostic reagent) in the reservoir for sensing purposes.

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WO 97/34697, Pg 1, Para 2, 1st Sent (compare translation to US '658 Col. 1, L. 9-10)

Auf vielen gebieten werden empfindliche materialien, z.B. chemische indikatormaterialien, katalysatoren, medikamente, ingesetzt.


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In English:


On many sensitive materials, e.g. chemical indicator materials, will order catalysts, medicines, begun.

Translate again - Enter up to 150 words

Auf vielen gebieten werden empfindliche materialien, z.B. chemische indikatormaterialien, katalysatoren, medikamente, eingesetzt.


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Page 3, last para (compar translation to '658 col. 2, lines 21-30, sp. lines 29-30).

Die vorliegende erfindung schafft eine vorrichtung zur gekapselten aufnahme eines materials, die einen eine ausnehmung zur aufnahme des materials aufweisenden in mikrosystemtechnik gebildeten grundkorper, eine den grundkorper überspannende, in mikrosystemtechnik oder dünnfilmtechnologie implementierte membran zur kapselung des materials in der ausnehmung des grundkörpers, und eine elektrisch betätigbare heizeinrichtung zum zerstören der membran, um das material freizulegen aufweist.

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In English:

The available invention creates a device for the totally enclosed admission of a material, which exhibits a recess for the admission of the material exhibiting in micro system engineering formed more grundkorper, the more grundkorper überspannende, in micro system engineering or dünnfilmtechnologie implemented diaphragm for the packaging of the material in the recess grundkörpers, and an electrically betätigbare heating mechanism to the zerstören diaphragm, around the material freizulegen.

Search the web with this text

Translate again - Enter up to 150 words

Die vorliegende erfindung schafft eine vorrichtung zur gekapselten aufnahme eines materials, die einen eine ausnehmung zur aufnahme des materials aufweisenden in mikrosystemtechnik gebildeten grundkorper, eine den grundkorper überspannende, in


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Page 5, last line—page 6, 1st paragraph (compare transl to '658 Col. 3, lines 29-45)

Ein gassensorbauelement, das in den Figuren 1 und 2 in seiner Gesamtheit mit dem Bezugszeichen 10 bezeichnet ist, umfasst einen Träger 1, welcher beispielsweise aus Quarz besteht, auf den die Mebelemente (z.B. Leiterbandstrukturen, Mosfet, SAW u.a.) 2, 3 einer Interdigitalstruktur zur Kapazitäts- und/oder Widerstandsmessung mit zugehörigen Verbindungsleitungen 2b, 3b und Anschlußflächen 2a, 3a aufgebracht sind. Die Interdigitalstruktur ist mit einem Indikatormaterial 6 bedeckt. Bei dem hier gezeigten Ausführungsbeispiel des gassensorbauelementes 10 handelt es sich bei dem Indikatormaterial um 3-amino-propyltrimethyloxysilan, welches an Luft nur eine begrenzte Lebensdauer von drei Monaten hat. Es ist deshalb erwünscht, die Indikatormaterialschicht erst kurz vor ihrem Einsatz in Kontakt mit der Umgebungsluft zu bringen, um die volle Lebensdauer der Indikatormaterialschicht zur Verfügung zu haben.

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Babel Fish Translation

in English:

A gas sensor element, das in the figures 1 and 2 in its whole with the reference symbol 10 is designated, umfasst trager 1, which consists for example of quartz, outer e (het mebelement (e.g. leiterbandstrukturen, mosfet, saw among other things) 2, 3 of an interdigital structure for the kapazitate and/or resistance test with zugehörigen leader lines 2b, 3b and Anschlußflächen 2a, 3a are applied. The interdigital structure is covered with an indicator material 6. With the export example of the element of building of gas sensors 10 shown here it concerns with the indicator material 3-amino-propyltrimethyloxysilan, which has a limited life span of three months at air only. It is therefore erwünscht to bring the indicator material layer only briefly before its employment in contact with the ambient air in order to have the full life span of the indicator material layer to the joining.

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Translate again - enter up to 100 words

Ein gassensorbauelement, das in den Figuren 1 und 2 in seiner Gesamtheit mit dem Bezugszeichen 10 bezeichnet ist, umfasst einen Träger 1, welcher beispielsweise aus Quarz besteht, auf den die Mebelemente (z.B. Leiterbandstrukturen, Mosfet, SAW u.a.) 2, 3

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Page 6, first full para (compar '658 col. 3, lines 46-61)

Zum Zwecke der kapselung ist der trager 1 an seiner mit dem indikatormaterial 6 versehenen seite mit einer membranhaltestruktur 4 versehen, die bei dem hier gezeigten ausfuhrungsbeispiel aus einem siliziumwafer besteht, in dem die ausnehmung 8 durch ubliche photolithographische und atztechnische methoden eingearbeitet ist. Fur einen fachmann auf dem gebiet der mikrosystemtechnik bedarf es keener erlauterung, dab methoden zur herstellung bon einer eine haltestruktur uberspannenden membran in der mikrosystemtechnik ublich sind un dab hierbei ublicherweise eine membran 5 zunachst auf eine haltestruktur 4 durch photolithographische und atztechnische mabnahmen eingebracht wird.

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In English:

For the purpose of the packaging is provided the trager 1 side provided at its with the indicator material 6 with a diaphragm holding structure 4, which consists with the driving out example shown here of a silicon wafer, in which the recess 8 by ubliche photolithographische and atztechnische methode is trained. Fur a specialist in the area of the micro system engineering requires it more keener erlauterung, dab methoden for production bon a holding structure uberspannenden diaphragm in the micro system engineering ublich is un dab here a ublicherweise diaphragm 5 zunachst on a holding structure 4 by photolithographische and atztechnische mabnahmen is brought in.

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Translate again! - Enter up to 120 words

Zum Zwecke der kapselung ist der trager 1 an seiner mit dem indikatormaterial 6 versehenen seite mit einer membranhaltestruktur 4 versehen, die bei dem hier gezeigten ausfuhrungsbeispiel aus einem siliziumwafer besteht, in dem die ausnehmung 8 durch

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Allowable Subject Matter

Claims 3-7, 11, 13, 14, 25, 26, 49, and ⁵²51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

This action is being made NON-FINAL view of new grounds of rejection.

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Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy T. Thissell whose telephone number is (703) 305-5261. The examiner can normally be reached on 8:30-7:00 Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached at (703) 308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jt

July 9, 2003



BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700